

FACTSHEET

TITLE: **SPECIAL PERMIT NO. 2028**, requested by Mettlen, Inc., d/b/a Jax, for authority to sell alcoholic beverages for consumption on the premises, on property located at 2711 South 48th Street.

SPONSOR: Planning Department

BOARD/COMMITTEE: Planning Commission
Public Hearing: 07/23/03
Administrative Action: 07/23/03

STAFF RECOMMENDATION: **Denial.**

RECOMMENDATION: **Denial** (5-1: Bills-Strand, Taylor, Marvin, Carlson and Schwinn voting 'yes'; Larson voting 'no'; Duvall, Krieser and Steward absent).

FINDINGS OF FACT:

1. The applicant is requesting authority to sell alcoholic beverages for consumption on the premises at 2711 South 48th Street. The Class C liquor license for this location was approved by the City Council on June 16, 2003.
2. The staff recommendation to deny this special permit is based upon the "Analysis" as set forth on p.3-5, concluding that the request is within 100' of a residence and a residential district, both located adjacent to the west of the premises. The grade differences and existing screening between these properties and the layout of the building entrance and customer parking does mitigate the potential impacts of alcohol sales at this location to some extent. However, late night/early morning activities inside and outside the proposed bar could still create a significant disturbance to the peace and enjoyment of the residential property.
3. The applicant's testimony is found on p.7-8. The applicant displayed photographs to demonstrate the mitigation at the site and submitted that this use will not cause any significant disturbance to the peace and enjoyment of the residential property.
4. Four neighboring residential property owners testified in opposition, with concerns about safety of the children of the neighborhood, property values, noise, and the disturbance of the peace and enjoyment of the neighborhood (See Minutes, p.8-9).
5. The applicant's response to the opposition is found on p.10.
6. The Planning Commission discussion with staff and the applicant is found on p.8-10.
7. On July 23, 2003, a motion to approve, with conditions as amended by staff, failed 3-3 (Larson, Bills-Strand and Schwinn voting 'yes'; Taylor, Marvin and Carlson voting 'no'; Duvall, Krieser and Steward absent). See Minutes, p.10-11.
8. On July 23, 2003, the majority of the Planning Commission agreed with the staff recommendation and voted 5-1 to recommend denial (Bills-Strand, Taylor, Marvin, Carlson and Schwinn voting 'yes'; Larson voting 'no'; Duvall, Krieser and Steward absent).

FACTSHEET PREPARED BY: Jean L. Walker

DATE: July 28, 2003

REVIEWED BY: _____

DATE: July 28, 2003

REFERENCE NUMBER: FS\CC\2003\SP.2028

LINCOLN CITY/LANCASTER COUNTY PLANNING STAFF REPORT

for July 23, 2003 PLANNING COMMISSION MEETING

P.A.S.: Special Permit #2028

PROPOSAL: A special permit to allow the sale of alcoholic beverages for consumption on the premises.

CONCLUSION: This request is within 100' of a residence and a residential district both located adjacent to the west of the premises. The grade differences and existing screening between these properties and the layout of the building entrance and customer parking does mitigate the potential impacts of alcohol sales at this location to some extent. However, late night/early morning activities inside and outside the proposed bar could still create a significant disturbance to the peace and enjoyment of the residential property.

RECOMMENDATION:

Denial

GENERAL INFORMATION:

LEGAL DESCRIPTION: Lot 2, Christensen Addition, Lancaster County, Nebraska.

LOCATION: 2711 South 48th Street

EXISTING ZONING: B-1 Local Business

EXISTING LAND USE: Shopping Center

SURROUNDING LAND USE AND ZONING:

North:	Commercial	B-1
South:	Commercial	B-1
East:	Commercial	B-2
West:	Residential	R-2

COMPREHENSIVE PLAN SPECIFICATIONS: The Comprehensive Plan designates commercial land uses in this area

TOPOGRAPHY: There is a significant change in grade between this site and the residential to the west. There is an approximately 12' high retaining wall with a 6' privacy fence at the top along the west property line and tapering down from the same height at the southwest corner of the property along Van Dorn. Additionally, the grade is generally falling from south to north across the shopping center.

ANALYSIS:

OVERVIEW: The applicant previously operated Jax Liquor Store from this location, a use that pre-existed the amendments to the Zoning Ordinance requiring special permits for the sale of alcohol. As a result, the off-sale is considered a lawful pre-existing use and can continue to operate.

This request is to allow the sale of alcohol for consumption on the premises, a change in use that requires a special permit for it to be allowed. The applicant is proposing to renovate the building space to accommodate a bar instead of a liquor store. Sections 27.63.680 and 27.63.685 both contain provisions that require separate special permits for either on or off alcohol consumption.

1. SPECIAL PERMIT REQUIREMENTS PER LMC 27.63.685: Alcoholic beverages may be sold for consumption on the premises in the B-1, B-3, H-1, H-2, H-3, H-4, I-1, I-2 and I-3 zoning districts upon the approval of a special permit. A special permit for such use may be granted subject to the requirements of the respective districts, all applicable ordinances, and the following conditions, which can be waived by the City Council:

(a) Parking shall be provided on-site at the ratio of one space per 100 square feet of gross floor area.

The parking provided exceeds this requirement.

(b) The sale of alcoholic beverages for consumption off the premises shall not be permitted without issuance of a permit under Section 27.63.685 of this code.

This application is for a special permit to allow for the sale of alcohol for consumption on the premises only. The sale of alcohol for consumption off the premises is a lawful pre-existing use at this location.

(c) The licensed premises of any building approved for such activity must be located no closer than 100 feet from a day care facility, a residential district or residential use, or, if a lesser distance, must mitigate any adverse effects of the reduction in distance through landscaping, screening, or other methods approved by the Planning Director.

An on-site inspection by the Police Department shows that the nearest residential district is approximately 61' away from the premises, with the nearest residence being approximately 66' away. Both are located to the west of the premises. The applicant is requesting that the existing 12' retaining wall, the 6' tall privacy fence located at the top, along with the existing trees all located along the west property line be considered as adequate mitigation for this use being located less than 100' from a residence or residential district. Because it is less than 100' to a residence and a residential district from the premises, the Police Department is recommending denial of this request.

(d) Any lighting on the property shall be designed and erected in accordance with all applicable lighting regulations and requirements.

No new lighting is proposed. The Building and Safety Dept. has no record that the parking lot lighting has received a permit.

(e) Vehicle stacking for a drive-through window used as any part of the permitted business operation shall not be located in any required building setback from a residential district.

A drive-through window is not shown as part of the restaurant.

(f) The use shall not have any amplified outside sound or noise source, including bells, buzzers, pagers, microphones, or speakers within 150 feet of any residential district. This shall not apply to sound sources audible only to the individual to whom they are directed, such as personal pagers, beepers, or telephones.

An amplified outside noise source is not shown as part of this request.

(g) No access door to the business, including loading or unloading doors, shall face any residential district if such doors are within 150 feet of the residential district. This shall not apply to emergency exit doors required by building or safety codes. No door facing a residential district shall be kept open during the operation of the establishment.

The front door does not face a residential district.

(h) Vehicular ingress and egress to and from the property shall be designed to avoid, to the fullest extent possible as determined by the City Council, disruption of any residential district. Particular attention shall be given to avoiding designs that encourage use of residential streets for access to the site instead of major streets.

Access to this site is from both Van Dorn Street and South 48th Street, neither of which are residential streets.

(i) All other regulatory requirements for liquor sales shall apply, including licensing by the state.

(j) The City Council may consider any of the following as cause to revoke the special permit approved under these regulations:

(1) Revocation or cancellation of the liquor license for the specially permitted premises; or

(2) Repeated violations related to the operation of the permittee's business.

Planning Commission review and City Council approval is required for this use.

2. POLICE RESPONSE: The Police Department notes that the premises is less than 100' to a residence and a residential district and recommends denial.

3. PUBLIC WORKS RESPONSE: Public Works and Utilities had no objections to this special permit request.

The staff recommendation is for denial. However, should the City Council vote to approve the request, approval should be subject to the following conditions.

CONDITIONS:

Site Specific:

1. This approval permits the sale of alcohol for consumption on the premises as shown on the site plan.

General:

2. Before receiving building permits:
 - 2.1 The permittee shall have submitted a revised and reproducible final plan with 5 copies.
 - 2.2 Lighting on the property shall be designed and erected in accordance with all applicable lighting regulations and requirements.
 - 2.3 The construction plans shall comply with the approved plans.

Standard Conditions:

3. The following conditions are applicable to all requests:
 - 3.1 The site plan accompanying this permit shall be the basis for all interpretations of setbacks, yards, locations of buildings, location of parking and circulation elements, and similar matters.
 - 3.2 This resolution's terms, conditions, and requirements bind and obligate the permittee, its successors and assigns.
 - 3.3 The applicant shall sign and return the letter of acceptance to the City Clerk within 30 days following the approval of the special permit, provided, however, said 30-day period may be extended up to six months by administrative amendment. The clerk shall file a copy of the resolution approving the special permit and the letter of acceptance with the Register of Deeds, filing fees therefor to be paid in advance by the applicant.

Prepared by:

Brian Will
Planner
July 8, 2003

APPLICANT: Mettlen, Inc., d/b/a Jax
2711 South 48th Street #101
Lincoln, NE 68506

CONTACT: Eugene Podolak
5201 Topaz Court
Lincoln, NE 68516
(402) 540-6644

OWNER: Christensen LTD Partnership

SPECIAL PERMIT NO. 2028

PUBLIC HEARING BEFORE PLANNING COMMISSION:

July 23, 2003

Members present: Larson, Bills-Strand, Taylor, Marvin, Carlson and Schwinn; Duvall, Krieser and Steward absent.

Staff recommendation: Denial.

Ex Parte Communications: None

Proponents

1. **Darrell Stock**, 1115 K Street, #104, attorney for the applicant, presented the application and commented on the staff recommendation of denial. He noted that the staff has conceded that there is mitigation provided, but suggests that the use still could create a “significant disturbance” to the peace and enjoyment of the residential property. Stock does not know what a “significant disturbance” is. He submitted that there is neither a significant risk of disturbance nor is there a risk of a significant disturbance as a result of this change in use.

JAX Liquor has been on this corner for 35 years, selling package liquors. At one time there was a stand alone building which was torn down in 1991, and JAX became part of the shopping center that was built there. For 30 some years, they have already been dispensing alcoholic beverages as off-sale at this site. With the proliferation of the grocery stores and convenience stores selling package liquor, the “Mom and Pop” liquor stores are basically done. In order to try to continue in business, Mr. Podolak is requesting this change and wants to be able to run a small neighborhood bar at this location. This is going to be a very small place, with a maximum estimate of 60-70 people, but Stock does not believe this would occur very often.

Stock then showed photographs and described the mitigation around the site. Looking southwest is a 13' cement wall, a chain link fence and a 6' privacy fence, so the south and west corners of the property are part of the division between the residential and the commercial neighborhood. There are no openings on the south side of the premises—only a cement wall. Thus, Stock submitted that there is no “significant disturbance” emitting from the south wall. Looking southwest, the fence runs all the way to basically the front edge of the property and there is a wall along the south side. Anyone around this property basically has to go to the front of the property in order to get in or out of the premises. There are parking spaces off to the south and west side, but there is no practical reason they would be used. These spaces are required by ordinance for this type of shopping center.

Stock exhibited that no one standing at the first house on the west would know this facility existed. Immediately south across Van Dorn is a commercial building of law offices and accountant offices. On the back side of the property looking north and northwest, the pictures showed a delivery truck for the other stores and the wall and fencing continues on to the north, again isolating this commercial center. The front of the store is on the east side and the store is only 20' wide. There is only one door

for ingress and egress to the west side that will be closed at all times. The only other door is the front door. Anyone coming or going from the premises is going to have to go straight south to go around because of the fence.

Stock stressed that it would be very difficult to isolate a premises any more than this is isolated. He is convinced that it is mitigation because simply no one can get to or from these premises without injuring themselves except to come around to the front of the building. There will be no significantly large crowds. They will not be drawing college students to this location.

With regard to the recommendation of denial, Stock pointed out that the Police report states that their denial is based on footage. There is no mention in the Police report about any concern about disturbances. There is hardly a "concentration of licenses" here – the closest would be Parkway Lanes. Stock does not foresee there being any significant conflicts between the two. The next closest would be the El Toro across the street in the other shopping center. There is not going to be a significant concentration of people that are bar hopping. The intent is to have a neighborhood bar for people to socialize. There are no plans for live music, other than maybe a guitarist once in awhile. There will not be the risk of a significant disturbance. For that matter, Stock suggested that a mere disturbance would be drowned out by the traffic on 48th Street. Had there not been notices sent out to the neighbors, Stock believes this change could have occurred and no one would have known that anything different was going on. In fact, he believes the traffic will decrease.

Bills-Strand observed that the ordinance requires a 100' separation from residential uses. And, the ordinance may take the furthest back part of the property for this measurement. However, she pointed out that the closest residence from the front door would be 140'-145'. Stock concurred. He believes the chances of any disturbance are very remote.

Schwinn referred to Condition #2.2, which requires that the lighting shall be designed and erected in accordance with all applicable lighting regulations and requirements. He asked whether the applicant foresees any change in the existing lighting. Stock stated that the lighting was done in 1991 when the shopping center was approved. He suggests that they would have had to meet the lighting standards at that time, thus he does not know what this condition is about. As far as he knows, the liquor store meets the current requirements for lighting.

Opposition

1. Ramona Maske, 4630 Van Dorn, the house directly west of the subject use, testified in opposition. Her home is 61 to 66 feet away from a business that is going to be open until 1:00 a.m. It can get very noisy on numerous occasions. Children come running in like mad to get food from the neighborhood restaurants. There are little neighborhood kids in the area with mothers coming up and down the street with strollers. There are many things that could occur because of this business being there. Her bedroom windows are right to the east. Even now, it is a problem to sleep with the bedroom windows open. There are little children living in the same block. She does not object to new business, but she does not want to have a bar next to her house because of resale value, living conditions, safety, etc.

2. Harvey Maske, 4630 Van Dorn, testified in opposition. He has lived there for 46 ½ years. Traffic has been a problem with trucks barreling through in the daytime. The big refrigeration trucks are very

noisy. The Wonder Bread truck shows up about 4:30 a.m., then the garbage trucks, and then delivery trucks come into the businesses. This goes on all day long until 3 or 4 o'clock in the afternoon. Then the bar will start getting customers in the late afternoon and on until 1:00 a.m. He believes this use will increase the opportunity for crimes and disturbances. He believes that many of the neighbors are opposed.

3. Wally Martin, 4633 Eden Circle, testified in opposition. She agreed with the Maske's. This will affect the peace and quiet in the neighborhood. There is a walkway between Eden Circle and 46th Street that leads south to Eden Pool. This walk is very close. The children are there. Eden Park is there. There is already quite a bit of traffic on this walkway from the shopping center. It happens late at night and we are getting some detracting from peace and enjoyment of the neighborhood now. With a bar, that can only increase. She does not want the litter, the noise, the accidents, and drunken drivers. She bought her property because it was a lovely neighborhood near a pool, schools and shopping. It is important to keep the neighborhood feel to the area. She believes this is important to all of the neighbors.

4. Carol Snyder, who owns the property at 4620 and 4622 Van Dorn, testified in opposition. Her property is next door to the Maske's. The applicant indicates there will be only one entrance. What about fire? Don't they have to have front and rear exits? Where will they put the other door for safety, and doesn't that bring it within the 100'? Her daughter was hit on her bicycle going down 48th & Van Dorn. There are a lot of children in the neighborhood going to and from the pool and schools. This use may increase the incidents of accidents happening if people are consuming alcohol that close to their property.

Staff questions

Bills-Strand understands that the 100' separation requirement from residential is being reviewed and might possibly be changed in the future, such as measuring from the front door, etc. Brian Will of Planning staff acknowledged that there have been some meetings over the past eight months on that issue, with discussions about potential changes to the ordinance; however, nothing is in place at this time.

Brian Will also requested to amend the conditions of approval relating to the parking requirements. There is a reference in the staff report that the proposal exceeds the parking requirement; however, for both the applicant and staff benefit, staff would suggest that prior to forwarding this application to the City Council, the applicant submit a revised site plan that confirms that all required parking is provided. This is now a requirement before building permit, but the staff would prefer it be done now before it is scheduled on the City Council agenda.

Carlson inquired whether that changes the staff's recommendation. Will indicated that it does not. The staff is still recommending denial.

Marvin inquired about the spacing at the bowling alley because it appears to be similarly situated. Will did not know, except that it appears to be within 100' of residential uses, but it probably pre-existed the ordinance and is grandfathered.

Response by the Applicant

Stock stated, "We're here because of the HyVee's and the Super Savers" and he believes it is ironical. He does sympathize with the neighbors because he would not want to live close to a corner that contains both a Burger King and a McDonald's. This neighborhood bar is not going to change what happens on that corner. All accesses to this property are by arterials. He believes this business will have the least impact on anyone around it. The noise is already there because of the arterial streets. There is already commercial activity going on. This use will not affect that at all. There is going to be no noticeable difference with a business of this size and the few people that will be coming in from Van Dorn and from 48th Street. He does not believe the neighbors will ever even know they are there. There will be a fire door, but they will not be letting people go out this door unless there is a fire.

Larson inquired about the status of the off-sale license. Stock indicated that the off-sale has already been closed. The Class D has already been surrendered. They have received approval for the Class C. All they are waiting for now is to be able to show the Liquor Commission that they have the necessary occupancy permits and this special permit.

Bills-Strand pointed out that Wendy's, Burger King and McDonald's are open pretty late. Stock does not believe that this neighborhood bar will be frequented by students and young adults. It will be a neighborhood bar and most of the patrons are not young adults. Bills-Strand empathizes with the neighbors but it seems like there are a lot of other noisy businesses around that attract teenagers, etc.

Based upon the number of Commissioners present, Schwinn inquired whether the applicant would prefer to move forward with a recommendation of denial rather than being held over for two weeks. Stock stated that they would prefer to take a recommendation of approval to the City Council, but a two week delay would be problematic. Eugene Podolak stated that the city dropped the ball on this and they were not aware they needed this special permit until they were at the City Council seeking approval of the liquor license.

ADMINISTRATIVE ACTION BY PLANNING COMMISSION:

July 23, 2003

Larson moved approval, with conditions as amended by staff, seconded by Bills-Strand.

If he was a residential neighbor to this site, Larson would prefer on-sale to off-sale. On-sale will mean that no package is taken out, no beer cans taken out, etc., and he believes the traffic will decrease rather than increase. He did a site visit and is convinced that there is a real separation--it is a huge wall behind there. He believes this is actually an improvement.

Bills-Strand concurred. Her business is next door to an on-sale, and it does eliminate some of the litter. She believes that on-sale is so much quieter than the off-sale.

Schwinn stated that he will support the motion. Historically, the community he grew up in had neighborhood bars and he felt they were a fabric of the neighborhood and helped strengthen the neighborhood. There is a Brewsky's in his neighborhood now and there is never excess traffic or

large crowds in the parking lot. He thinks there is a use for neighborhood bars. The Library Lounge on 70th & A is also very quiet and it is just as close to residential as this will be. He believes this is a good use. It is a hard edge on the corner and it always will be.

Carlson shared his opinion that generically, in a planning sense, you can create a mixed use with a neighborhood bar and restaurants that serve alcohol. However, talking about this specific application, the Planning staff is recommending denial and the adjacent property owners are not satisfied so he will not support it.

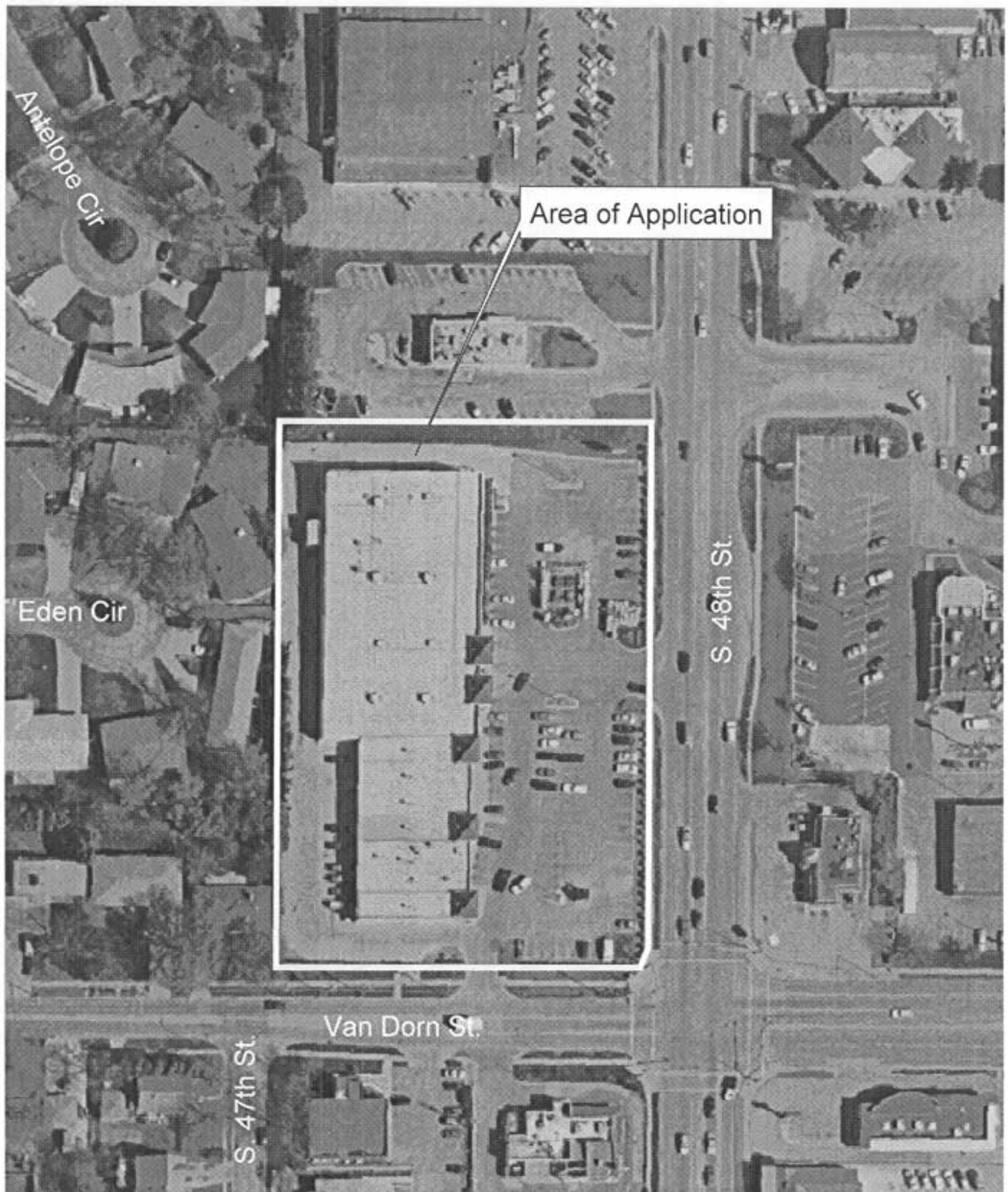
Marvin stated that he will vote against the permit. He believes the application needs to comply with the spacing requirements until those requirements are changed. There may be a grandfathered use down the street, but if we start picking and choosing we make the rule unenforceable.

Taylor is going to vote against this because there is a reason for the 100' requirement. He takes the neighborhood concerns into consideration. He does not want to fail to acknowledge the concerns of the people that will be most directly affected. What happens in one neighborhood is not necessarily going to happen in another neighborhood. He does not believe we want to bypass or ignore the concerns of the neighbors that are affected.

Schwinn pointed out that the Police Department's job is to say no based on the spacing requirements. The rule is 100' and they have to say no. He also pointed out, however, that the Police Department report does not say one word about violations from this owner. The fact of the matter is that the Police Department cannot pick and choose because of the distance requirements. "Yes, three neighbors came down but 99 didn't come down." We didn't get any letters; we didn't get any emails. Everyone else had the same opportunity to comment.

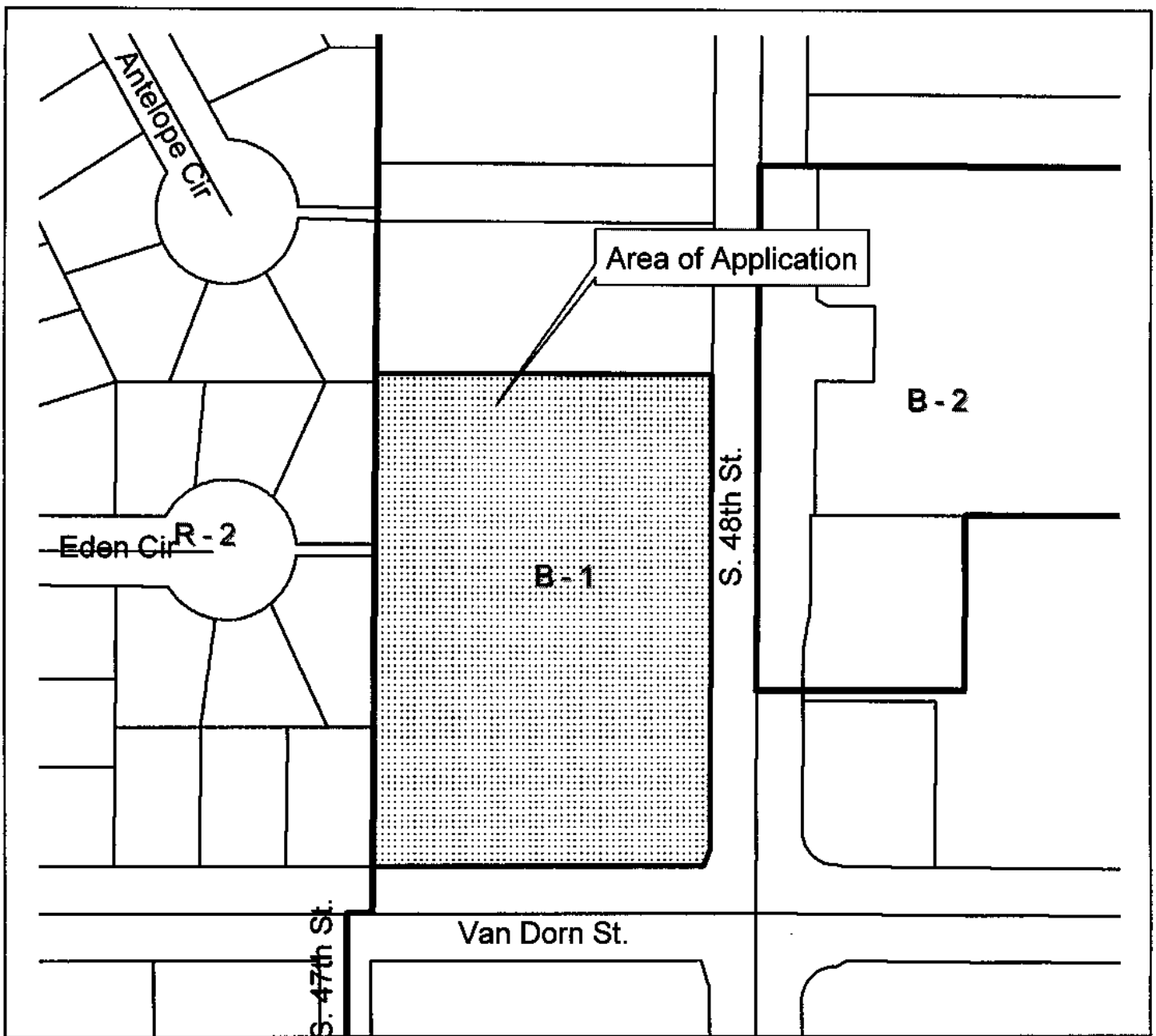
Carlson believes that the Planning professionals do make an analysis of the site to make a recommendation.

Motion for approval, with conditions, as amended by staff, **failed** 3-3: Larson, Bills-Strand and Schwinn voting 'yes'; Taylor, Marvin and Carlson voting 'no'; Duvall, Krieser and Steward absent. Carlson moved denial, seconded by Bills-Strand, "to move the application forward". Motion to **deny** **carried** 5-1: Bills-Strand, Taylor, Marvin, Carlson and Schwinn voting 'yes'; Larson voting 'no'; Duvall, Krieser and Steward absent.



**Special Permit #2028
S. 48th & Van Dorn St.**



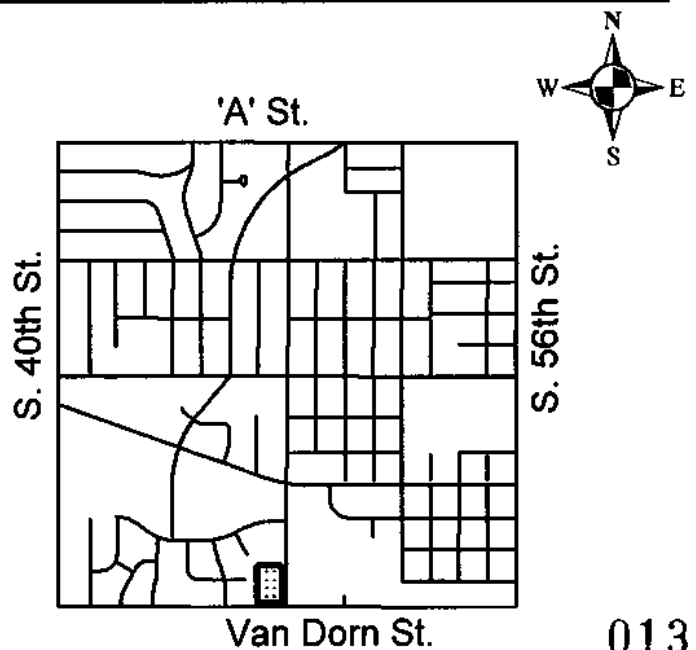
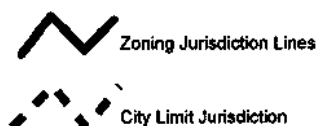


Special Permit #2028 S. 48th & Van Dorn St.

Zoning:

R-1 to R-8	Residential District
AG	Agricultural District
AGR	Agricultural Residential District
R-C	Residential Conservation District
O-1	Office District
O-2	Suburban Office District
O-3	Office Park District
R-T	Residential Transition District
B-1	Local Business District
B-2	Planned Neighborhood Business District
B-3	Commercial District
B-4	Lincoln Center Business District
B-5	Planned Regional Business District
H-1	Interstate Commercial District
H-2	Highway Business District
H-3	Highway Commercial District
H-4	General Commercial District
I-1	Industrial District
I-2	Industrial Park District
I-3	Employment Center District
P	Public Use District

One Square Mile
Sec. 32T10N R7E



013

PURPOSE STATEMENT

TO: Planning Staff

We are requesting permission to transform "Jax Beverages" off sale liquor to "Jax" on sale bar. Anticipated hours of operation would be from early afternoon to 1:00 a.m. We expect to employ 6-8 people with Gene Podolak being the active, on-site manager. Since an off-sale generates constant turnover traffic, and an on-sale does not, we project less activity in the parking lot and its entrances. Maximum occupancy will probably be 70-75 patrons.

Additional information regarding Special Use Permit RE 27.63.680 Section C.

While we do not meet the first part of this zoning ordinance rule of 100' from the building (Jax) to the west residential property line, we do comply with the second half of Section "C" with an uncompromisable barrier. In addition to over 61 linear feet to the property line, there is a 13' concrete retaining wall, creating a grade separation, and a chain link fence on top of the concrete wall that faces the west and the south sides of the building. Also on the west is a 6' privacy fence providing further screening. The premises in question have always been used for commercial purposes.

Additionally, due to the layout and the location of the entrance on the east side of this site, the business activity will be conducted 140' - 145' away from the property line in question. There are no doors or windows on the south side and only one door for deliveries and emergency exiting on the west side. The premises are too small to have live music.

We ask that you consider this combination of circumstances more than mitigates any possible impact to adjacent properties.

Gene Podolak

25'-30' RETAINING WALL
13' PRIVATE FENCE

MARK S. CHAMPION, AIA
ARCHITECT
1500 SOUTH STREET, LINCOLN, NE 68502 402-475-3400

LANCASTER SQUARE

PROPERTY LINE

402-753 9947

ALL WORK TO BE DONE BY CONTRACTOR

BY THE CITY OF LINCOLN, NEBRASKA
THESE REVISIONS TO THE DRAWING
SHALL NOT BE CHARGED, AND
MAY BE MADE, OR ALTERED
WITHOUT PERMISSION
FROM THE BUILDING AND
SAFETY DEPARTMENT OF LINCOLN COUNTY
THIS PROJECT IS NOT TO BE
CONSIDERED A FINAL DESIGN
AT ALL TIMES DURING
WHICH THE WORK AUTH-
ORIZED IS IN PROGRESS
AND IS ALL BE OPEN TO
INSPECTION BY PUBLIC
OFFICIALS.

DATE

REVISION

PTF 4.1.15

20' FRONTYARD SETBACK LINE

PROPERTY LINE

DELIVERY TRUCK PATH



ESPRESSO 101

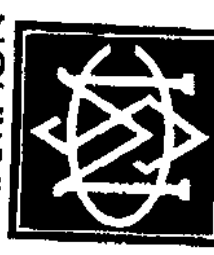
48th & Van Dorn Streets, Lincoln, Nebraska

coffee / Kiosk area will be available for parking

SCALE: 1" = 50'-0"



CHAMPION



ARCHITECTURE

Date: 9 OCT 01
Project: 01008 nme
Dwg: mmebd aqn

Memorandum



To: Mr. Brian Will
From: Sergeant Michael S. Woolman
Date: July 1, 2003
Re: Mettlen Inc. DBA Jax

Mr. Will,

I have reviewed the Mettlen Inc DBA Jax Alcohol Sales Special Permit #2028. Section 27.63.680 of the Lincoln Municipal Code states that the licensed premises of any building approved for such activity must be no closer than 100 feet from a day care facility, a residential district or residential use, or, if a lesser distance, must mitigate any adverse effects of the reduction in distance through landscaping, screening, or other methods approved through the Planning Director.

Mettlen Inc DBA Jax is located at 2711 South 48th Street #101. Sgt. Richards and I took measurements from the west wall of the 2711 South 48th Street #101 to the retaining wall located on the west end of the property line. The distance from wall to wall is 61 feet. The retaining wall, with a residential privacy fence attached, separates the west parking lot of 2711 South 48th Street and the east property line of a residential house located at 4630 Van Dorn Street.

The Lincoln Police Department is recommending denial based on the criteria that the proposed location is within 100 feet of a residential district / residential use.

Sergeant Michael S. Woolman